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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/917,536 | 07/27/2001 | Sean James Martin | GB920010042US1 | 2124 |

7590 09/08/2005

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| EXAMINER |
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BLAIR, DOUGLAS B

| ART UNIT | PAPER NUMBER |
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2142

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,536

Applicant(s)

MARTIN ET AL.

Examiner

Douglas B. Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/2/2005 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, 19-35, and 39-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,606,661 to Agrawal et al. in view of U.S. Patent Number 6,389,028 to Bondarenko et al..

4. Claims 1-15, 19-35, 39-40, 42-53, and 55 are rejected for reasons presented in the previous office action.

5. Amended claims 41, 54, and 56 are rejected for reasons pointed out in the previous rejection of claim 1.

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6. Claims 16-18 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,606,661 to Agrawal et al. in view of U.S. Patent Number 6,389,028 to Bondarenko et al. in view of U.S. Patent Number 6,011,537 to Slotznick.
7. Claims 16-18 and 36-38 are rejected for reasons presented in the previous office action.

Response to Arguments

8. Applicant's arguments filed 5/2/2005 have been fully considered but they are not persuasive. The applicant argues the following points: (a) The Office overlooks the meaning of the term "navigating away from" as included in the claimed invention; (b) The user as included in the claimed invention does not have to remain connected to the site in order to remain enqueued as in Agrwal and Bondarenko, but instead may remain enqueued while navigating away from the scarce resource; and (c) A late request is different from a normal request because the late requestor of the claimed invention may be granted access even when the access level of the scarce resource is at the desired maximum.
9. As to point (a), the term "navigating away from" is broad. It encompasses opening a new browser to navigate resources as previously explained in prior office actions. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
10. As to point (b), the claim language says nothing about "a user not having to remain connected to a site in order to remain enqueued" as argued by the applicant. "Navigating away from" is not the same thing as "not maintaining a connection".

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11. At to point (c), the claim language of claim 20 does not make it clear that a request may be granted access even when the access level of the scarce resource is at the desired maximum. Specifically, the claim language states that there is a step of "determining with the access level of the scarce resource at the desired maximum whether said scarce resource is able to accommodate access by said late requester" so in other words the claim is interpreted as determining using the desired maximum whether or not to accommodate the request. This interpretation is consistent with the applicant's specification because the specification provides no discussion of an alternate process for determining whether or not to grant access to a request other than comparing it with the desired maximum.

Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER